



# Memorandum

United States Bankruptcy Court  
Eastern District of Virginia

**TO: Members of the Bar, Eastern District of Virginia**

**FROM: William C. Redden, Clerk of Court**

**DATE: September 17, 2001**

**SUBJECT: NOTICE – Planned Changes in Bankruptcy Case Administration in the Eastern District of Virginia, Effective January 1, 2002: IMPORTANT INFORMATION**

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At the direction of the Judges of the United States Bankruptcy Court for the Eastern District of Virginia, members of the Bar of the Court are being provided with this notice of planned changes in bankruptcy case administration in the Eastern District of Virginia, effective January 1, 2002.<sup>1</sup>

## **1. Overview of Planned Changes in Bankruptcy Case Administration**

- A.** The Eastern District of Virginia was one of five prototype bankruptcy courts for a new case management system known as the Case Management/Electronic Case Filing (CM/ECF) System. CM/ECF is designed to replace the existing case management systems in the bankruptcy, district and appellate courts. For the Eastern District of Virginia, the bankruptcy version of the CM/ECF System will replace the legacy case management system known as the National Integrated Bankruptcy System – NIBS.

The Court will: (1) discontinue the use of NIBS for new petition filings on and after January 1, 2002; (2) migrate NIBS electronic docket data to the CM component of the CM/ECF System in mid-February 2002; and (3) place full emphasis on using the CM/ECF System exclusively to produce complete electronic case files. Since, on and after January 1, 2002, no new cases will be administered in NIBS, the number of such cases will decline over time, as did cases under the former Bankruptcy Act of 1898, as amended, some years ago. During this transition period, the Court will move towards providing the Bar and public with a complete electronic case record, and its benefits, in all cases and adversary proceedings filed with the clerk's office.<sup>2</sup> This objective will be achieved

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<sup>1</sup> The contents of this notice memorandum are not intended to effect a change in current filing practice and procedure in the Newport News Division of the Court.

<sup>2</sup> The need to ensure public access to papers filed in cases and the dockets of the Court, pursuant to 11 U.S.C. § 107, is of paramount importance. This affirmative statutory requirement contemplates that the Court will maintain the integrity and safety of those papers and documents especially when natural or human-created emergencies require the implementation of the Court's

over a reasonable period of time while ensuring access to the Court by the Bar and public.

- B. All cases filed with the clerk's office on and after January 1, 2002, by parties with legal representation, must be in the CM/ECF System either via the Internet **or** submitted on 3.5-inch computer diskettes (disks) in specified formats.<sup>3</sup>
- C. If attorneys for parties with legal representation certify that they have financial constraints and are unable to access the equipment necessary to comply with the option of submitting filings on disks, the attorneys for the parties may request a waiver from filing by disk and be permitted to file by paper. (Attorneys for parties who do not have the ability to file disks will be deemed by the Court not to have the ability to make filings via the Internet.)
- D. Parties without legal representation may make filings by paper unabated.
- E. Cases administered in NIBS, which are filed prior to January 1, 2002, will continue to be administered by paper through closing.

## 2. Party With Legal Representation

A party **with** legal representation may file a "Request for Waiver to File Conventionally" form requesting to be excused from filing a document(s) on a disk due to the attorney's financial constraints and inability to access the equipment necessary to comply with the requirement set out in **Numbered Item 1.B.** above.<sup>4</sup> This is identical to the standard set out in the "Request for Waiver" form incorporated by reference in the Court's Local Bankruptcy Rule (LBR) 1007-1(I).<sup>5</sup>

The "Request for Waiver To File Conventionally" form will be available at the Intake counters of each division of the Court and will be posted in PDF at the "Bankruptcy Forms" link to the Court's Internet Home Page – [www.vaeb.uscourts.gov](http://www.vaeb.uscourts.gov). A party with legal representation who is granted a waiver by the Court to file conventionally (i.e., by paper) may make such a paper filing in accordance with the Court's Local Bankruptcy Rules.<sup>6</sup> The

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public record protection measures. The transition to complete electronic case records, through CM/ECF, significantly enhances the Court's ability to meet its public service mission.

<sup>3</sup> Document filing by disk must be in Portable Document Format (PDF). If a party cannot comply with this requirement, the party must submit a document on a disk in Word, WordPerfect or DOS text (ASCII).

<sup>4</sup> In all cases filed on and after January 1, 2002, petitions, motions, memoranda of law, or other pleadings and documents, shall be filed with the clerk's office either via the Internet or by disk except as otherwise expressly provided for in **Numbered Items 2. and 3.**

<sup>5</sup> LBR 1007-1(I) deals with the filing of the creditors' mailing matrix through submission of a disk. This requirement has been in place since January 1, 1999.

<sup>6</sup> The Court's Local Bankruptcy Rules are available at the Intake counters of each division of the Court and are posted in PDF at the "Local Rules" link to the Court's Internet Home Page – [www.vaeb.uscourts.gov](http://www.vaeb.uscourts.gov).

clerk's office will file the document pursuant to filing procedures on behalf of the filer in the CM/ECF System.

A party with legal representation may elect to scan paper documents on a disk using scanning equipment and diskettes that are available to the Bar and public in the public areas of each division of the Court. The clerk's office will file the document submitted on a diskette pursuant to filing procedures on behalf of the filer in the CM/ECF System.

The exceptions provided for in Exhibit 4 to the Court's LBRs – "Administrative Procedures for Filing, Signing, Maintaining and Verifying Pleadings and Papers in the Electronic Case Filing (ECF) System" (Administrative Procedures) – at Paragraph III.A., will remain in effect.<sup>7</sup>

### **3. Party Without Legal Representation**

A party **without** legal representation is **not** required to file petitions, pleadings, documents and papers electronically, but may make such filings by paper in accordance with the Court's Local Bankruptcy Rules.<sup>8</sup> The clerk's office will file the document pursuant to filing procedures on behalf of the filer in the CM/ECF System.

### **4. Pre-January 1, 2002, Cases Administered in the National Integrated Bankruptcy System (NIBS) will Continue to be Administered Conventionally, by Paper Only, on and After January 1, 2002**

Cases administered in NIBS, which are filed with the clerk's office **prior to January 1, 2002**, will continue to be administered solely by paper filings, through closing, except as required by LBR 1007-1(I). A party with or without legal representation must continue to make filings by paper in these cases.<sup>9</sup>

It is expected that in February 2002, NIBS case administration in NIBS, by the clerk's office, will end and the docket data from and the paper filings in these cases will continue to be administered through paper filings, through closing, by the clerk's office in the CM component of the CM/ECF System.

### **5. Input from the Court's CM/ECF Users' Advisory Group and by the Court's Local Liaison Committees**

Prior to the above noted decisions being made by the Court, the Clerk of the Court sought input from the Court's CM/ECF Users' Advisory Group and from

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<sup>7</sup> The exceptions set out the Administrative Procedures, at Paragraph III.A., deal with conventional (i.e., paper) filings of the following documents unless the Court specifically authorizes these documents to be filed electronically: documents to be filed under seal; trial exhibits; and transcripts.

<sup>8</sup> Id.

<sup>9</sup> Case numbers in cases assigned to NIBS are distinctive. Following the two-digit calendar-year-of-filing prefix, NIBS case numbers begin with a "1", "2", "3", or "4" (example 01-20001-DOT). Thus, NIBS cases with case numbers beginning with any of the above identified four numbers, and which include a double-digit calendar-year-of filing prior to calendar year "02", are and will remain, through closing, conventional "paper" files.

the Court's Alexandria, Norfolk/Newport News and Richmond local liaison committees. These advisory bodies are made up of attorney, panel trustee, standing trustee and assistant U.S. Trustee representatives. It was the opinion of these advisory bodies that the Court should proceed in the manner set out in this memorandum. This favorable opinion, however, was conditioned on the need to ensure that access to the Court would not be denied to those members of the Bar who do not have the financial ability and are without the necessary equipment to undertake filings electronically. The Court has adopted the request for waiver procedure set out in **Numbered Items 1.C. and 2.** above, which addresses the access need identified by these advisory bodies.

## **6. Additional Information**

The Court will be making conforming changes to the Administrative Procedures through adoption of a successor to Standing Order 01-5, "Order Adopting Electronic Case Filing Procedures." When entered by the Court, the new standing order and revised Administrative Procedures will be posted physically at each division of the Court and will be posted, in PDF, at the "Bankruptcy Rules" link to the Court's Internet Home Page and at the Court's ECF Home Page.

For additional information on securing training in the ECF component of the CM/ECF System, please contact:

Alexandria.....	Elevyn Flowers	<b>(703) 258-1225</b>
Newport News.....	Caroline Bradley	<b>(757) 222-7574</b>
Norfolk.....	Patricia Woodhouse	<b>(757) 222-7575</b>
Richmond.....	Delores Jones	<b>(804) 916-2435</b>

The ECF Help Desk is staffed in the clerk's office from 8:00 AM to 5:00 PM, Monday-Friday (except on legal holidays) and can be reached toll free at **1-888-271-8610**.

Further information on the bankruptcy case administration changes set out in this memorandum will be forthcoming.